

## Appendix CC:

### Building Excise Tax and Schools Facilities Surcharge

	Road Excise Tax Collections	School Surcharge Collections
1996	\$6,069,403.00	
1997	\$6,583,599.00	
1998	\$8,278,872.00	
1999	\$8,264,766.00	
2000	\$8,321,436.00	
2001	\$8,116,089.00	
2002	\$6,179,035.00	
2003	\$5,914,638.00	
2004	\$7,426,371.50	
2005	\$6,861,276.50	\$5,946,543.00
2006	\$6,807,632.50	\$6,814,269.00
2007	\$6,736,886.94	\$6,371,054.00
2008	\$5,016,936.00	\$4,749,863.00
2009	\$3,712,270.50	\$3,796,822.00
2010	\$5,634,708.00	\$5,890,007.65
2011	\$4,681,588.86	\$4,875,886.42
2012	\$5,240,059.71	\$5,660,948.34
2013	\$6,990,924.06	\$6,581,536.45
2014	\$7,088,747.34	\$6,765,059.00
2015	\$7,369,817.36	\$6,883,467.00

SUBTITLE 5. - BUILDING EXCISE TAX

Sec. 20.500. - Authority.

(a)

(1) Subject to paragraph (3) of this subsection, the County may impose, by ordinance, a building excise tax for financing additional or expanded public road facilities that are included in the County's capital budget. Public road facilities include bridges, intersection improvements, and new road construction and road improvements.

(2) The County ordinance shall specify the type of construction subject to the building excise tax.

(3) The County may impose a building excise tax only after the County adopts an adequate facilities plan.

(b)

(1) The County Director of Finance shall deposit building excise taxes in an account known as the "development road improvement fund."

(2) Money in the development road improvement fund may be used only to pay for capital projects or indebtedness incurred for capital projects for additional or expanded public road facilities.

(c)

(1) Subject to paragraph (2) of this subsection, the County Council may increase the building excise tax.

(2) The percentage of the increase in the building excise tax since the month and year when the building excise tax is first enacted may not exceed the percentage of the increase in the ENR construction cost index for the Baltimore Region, based on 1913 U.S. average equals 100, as reported in ENR, Engineering News Record, since the base month and year when the building excise tax is first enacted.

(C.B. 38, 1998)

Sec. 20.501. - Establishment of tax.

In accordance with Chapter 285, Acts of the Maryland General Assembly of 1992, there is a building excise tax on all new construction and addition construction in Howard County, which tax will finance capital projects for additional or expanded public road facilities in Howard County. Where this tax will be used to finance capital projects, which include funding for State highway projects, it shall serve only as a supplement to enhance the State-funded level of highway construction in the County and not as a replacement of current State obligations.

(C.B. 38, 1998)

Sec. 20.502. - Definitions.

Words and phrases used in this subtitle shall have their usual meaning, unless otherwise defined in this section.

(a)

Addition construction means construction of an addition to a building where the work requires a Howard County building permit and where the addition either:

- (1) Increases the number of gross square feet of occupiable nonresidential structure on the property; or
- (2) Increases the number of gross square feet of occupiable residential structure on the property by more than 100 square feet.

(b)

Applicant means the individual, partnership, corporation or other legal entity whose signature appears on the building permit application.

(c)

Building means a structure with exterior walls which combine to form an occupiable structure. Building does not include a temporary structure, as defined in the building code.

(d)

Capital projects for additional or expanded road facilities means all capital projects for roads, bridges and intersection improvements in the Howard County capital budget.

(e)

Construction costs means the costs of construction, based on 1913 U.S. Average Equals 100, reported in "ENR, Engineering News Record" Construction Cost Index for the Baltimore Region.

(f)

Distribution and manufacturing refers to the use of a building for warehousing, distribution, packaging, processing, manufacturing, storage of construction equipment or supplies, and similar uses.

(g)

Institutional and other:

- (1) Religious activities.
- (2) Nonprofit clubs, lodges or community halls.
- (3) Day care centers, nursery schools and private academic schools.



(4) Hospitals, nursing homes and group care facilities.

(5) Recreational facilities or retreat centers operated by nonprofit organizations.

(6) Funeral homes and mausoleums.

(7) Public utility substations and similar uses.

(8) Other noncommercial uses similar to those listed in this definition or which do not meet the definitions for residential, office and retail, or distribution and manufacturing uses.

(h)

New construction means construction of a building which requires a Howard County building permit. Where the building replaces an existing building, new construction does not include replacement of a building due to casualty or loss within three years of that casualty or loss, or replacement of a mobile home on a site, except to the extent that the gross square footage of the replacement building or replacement mobile home exceeds the gross square footage of the building or mobile home being replaced.

(i)

Occupiable means designed for human occupancy in which individuals may live, work, or congregate for amusement, educational or similar purposes and which is equipped with means of egress, light and ventilation facilities.

(j)

Office and retail refers to the use of a building, other than as an accessory use to a residence, for:

(1) Business or professional offices.

(2) The sale or rental of merchandise, materials or services, including stores, personal service establishments, service agencies, commercial recreation facilities, hotels and conference centers, restaurants, theaters, banks and other financial institutions, trade schools and similar commercially operated schools, motor vehicle or appliance repair facilities and similar uses.

(3) Research laboratories.

(k)

Residential refers to a building which contains one or more dwelling units, including boarding houses but not including transient accommodations such as hotels, country inns or bed and breakfast inns. Residential includes all areas that are contained within a residential building such as attached garages or home occupations, but does not include nonresidential uses in mixed use structures. Residential does not include detached accessory buildings such as detached garages or sheds which do not contain any living quarters.

(C.B. 38, 1998)

Sec. 20.503. - Schedule of rates for tax.

(a)

Adopted by County Council. The County Council shall adopt by resolution a schedule of rates for the building excise tax in dollars per gross square foot of new construction. The schedule shall specify rates per gross square foot of:

(1) Residential addition construction;

(2) Residential new construction;

(3) Office and retail addition construction and new construction;

(4) Distribution and manufacturing addition construction and new construction; and

(5) Institutional and other addition construction and new construction.

(b)

Adjustment to Rates. The schedule of rates for the building excise tax may be adjusted annually by the County Council. However, the percentage of increase in the tax since the month and year when it was first adopted may not exceed the percentage of the increase in construction costs since the base month and year when the tax was first adopted.

(C.B. 38, 1998; C.B. 20, 2010, § 1)

Sec. 20.504. - Amount of tax.

(a)

Calculation of Amount. The amount of building excise tax to be paid by an applicant shall be determined by the Director of Inspections, Licenses and Permits from the building excise tax schedule.

(b)

Phase-In of Building Excise Tax. The building excise tax shall be phased in. In calendar 1992 applicants shall pay 50 percent of the amount otherwise due. In calendar 1993 applicants shall pay 75 percent of the amount otherwise due. In calendar 1994 and later years applicants shall pay 100 percent of the amount due.

(c)

Appeal of Amount. An applicant aggrieved by a decision of the Director of Inspections, Licenses and Permits regarding the calculation of the amount of building excise tax may appeal the decision to the Board of Appeals within 30 days of the Director's decision, provided that either:

- (1) Processing of the building permit is delayed pending the decision of the Board of Appeals; or
- (2) The Applicant pays the building excise tax prior to filing the appeal.

PART VI. - PUBLIC SCHOOL FACILITIES SURCHARGE Sec. 20.142. - [Surcharge enacted.]

(a)

(1) In this section the following words have the meanings indicated:

(2) Applicant means the individual, partnership, corporation, or other legal entity whose signature appears on the building permit application.

(3)(i) Building means a structure with exterior walls which combine to form an occupiable structure.

(ii) Building does not include a temporary structure, as defined in the Howard County Building Code.

(4)(i) New construction means construction of a building which requires a Howard County building permit.

(ii) New construction does not include, if the building replaces an existing building, replacement of a building due to casualty or loss within three years of that casualty or loss, or replacement of a mobile home on a site, except to the extent the gross square footage of the replacement building or replacement mobile home exceeds the gross square footage of the building or mobile home being replaced.

(5) Occupiable means space that is:

(i) Designed for human occupancy in which individuals may live, work, or congregate for amusement; and

(ii) Equipped with means of egress, light, and ventilation.

(6)(i) Residential means a building that contains one or more dwelling units and includes a boarding house.

(ii) Residential includes all areas that are contained within a residential building, including an attached garage or area for home occupations.

(iii) Residential does not include:

- 1. Transient accommodations, including a hotel, country inn, or bed and breakfast inn;
- 2. Nonresidential uses in a mixed-use structure; or



3. Detached accessory buildings, including a detached garage or shed that does not contain living quarters.

(b) The County Council by ordinance shall impose a school facilities surcharge on residential new construction for which a building permit is issued on or after July 1, 2004.

(c)

(1) For fiscal year 2005, a school facilities surcharge imposed on residential new construction shall be in the amount of one dollar per square foot of occupiable area in the residential new construction.

(2) For fiscal year 2006 and each succeeding fiscal year, the facilities surcharge established in paragraph (1) of this subsection shall be adjusted for inflation in accordance with the Consumer Price Index for All Urban Consumers published by the United States Department of Labor, for the fiscal year preceding the year for which the amount is being calculated.

(d)

(1) The school facilities surcharge shall be paid by the applicant at the time a building permit is issued for the residential new construction.

(2) The school facilities surcharge may not be construed to be a settlement cost.

(e)

(1) The County shall rebate to the Applicant the school facilities surcharge imposed on residential new construction under this section if, on the initial sale of the property, the property is sold for a fair market value that is less than \$200,000.00.

(2) If, on completion, the residential new construction is not sold but the property is occupied by the Applicant or the immediate family of the Applicant, the County shall rebate to the Applicant the school facilities surcharge imposed under this section if the initial assessment value assigned to the property by the State Department of Assessments and Taxation for purposes of the County real property tax equates to a market value that is less than \$200,000.00.

(3) For fiscal year 2006 and each succeeding fiscal year, the value of the property that is entitled to a rebate under this subsection shall be adjusted for inflation in accordance with the Consumer Price Index for all Urban Consumers published by the United States Department of Labor, for the fiscal year preceding the year for which the value is being calculated.

(4) Within 30 days after the start of each fiscal year, the Howard County Office of Finance shall calculate and publish in a newspaper of general circulation in the County the value of the property that is entitled to the rebate specified under this subsection.

(f) Payment of the school facilities surcharge does not eliminate any authority to apply any test concerning the adequacy of school facilities under the County's adequate public school facility ordinance.



(g) Revenue collected under the school facilities surcharge shall be deposited in a separate account and may only be used to pay for:

(1) Additional or expanded public school facilities such as renovations to existing school buildings or other systemic changes; or

(2) Debt service on bonds issued for additional or expanded public school facilities or new school construction.

(h) Revenue collected under the school facilities surcharge is intended to supplement funding for public school facilities and may not supplant other County or State funding for school construction.

(i) The County Executive of Howard County shall prepare an annual report on the school facilities surcharge on or before August 31 of each year for the County Council of Howard County, the Howard County Senate Delegation, and the Howard County House Delegation, to include:

(1) A detailed description of how fees were expended; and

(2) The amount of fees collected.

(2004, ch. 420)

Editor's note— Section 20.142 derives from 2004 Laws of Maryland, ch. 420. The catchline of this section has been provided by the editor.

Sec. 20.143. - Surcharge imposed.

(a)

House bill 1445 of the Acts of the General Assembly of 2004, to be codified as section 20.142 of the Howard County Code, requires that the County Council impose a school facilities surcharge on residential new construction for which a building permit is issued on or after July 1, 2004, with the revenue from the surcharge to be used to pay for additional or expanded public school facilities such as renovations to existing school buildings or other systemic changes, debt service on bonds issued for additional or expanded public school facilities, or new school construction.

(b)

In accordance with House bill 1445, there is a public school facilities surcharge imposed on residential new construction for which a building permit is issued on or after July 1, 2004.

(c)

The amount and terms of the surcharge, and the use of the revenue collected under the surcharge, shall be as required by section 20.142 of the Howard County Code, as enacted by House bill 1445.

(C.B. 15, 2004)